

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HOOMAN PANAH, an individual,
Plaintiff,
v.
STATE OF CALIFORNIA DEPT. OF
CORRECTIONS AND
REHABILITATION, et al.,
Defendants.

Case No. 14-00166 BLF (PR)

**ORDER DIRECTING PLAINTIFF
TO PROVIDE COURT WITH MORE
INFORMATION FOR UNSERVED
DEFENDANTS**

Plaintiff, an inmate on death row at California's San Quentin State Prison ("SQSP"), proceeding *pro se*, filed a second amended civil rights complaint pursuant to 42 U.S.C. § 1983, alleging unconstitutional acts by SQSP correctional officers. (Docket No. 54), which the Court screened and dismissed with leave to file a supplemental complaint. (Docket No. 66.) Plaintiff filed a supplemental complaint. (Docket No. 67.) On August 8, 2018, the Court found the supplemental complaint states a cognizable claim under the Fourteenth Amendment against Defendants Lt. Luna, Robberecht, Givens, Welton, McClelland, Lt. Jackson, AW Moore, CDW Rodriguez, and Warden Chappelle, and directed the Clerk to mail a Notice of Lawsuit and Request for Waiver of Service of Summons, and two copies of the Waiver of Service of Summons on each Defendant. (Docket No. 69.)

1 On November 1, 2018, the SQSP Litigation Coordinator returned the service
2 documents sent to Robberecht, AW Moore, Warden Chappelle, and McClelland, and
3 included a letter indicating the reason why each individual could not be served. (Docket
4 No. 101.)¹

5 Although a plaintiff who is incarcerated and proceeding *in forma pauperis* may rely
6 on service by the Marshal, such plaintiff “may not remain silent and do nothing to
7 effectuate such service”; rather, “[a]t a minimum, a plaintiff should request service upon
8 the appropriate defendant and attempt to remedy any apparent defects of which [he] has
9 knowledge.” *Rochon v. Dawson*, 828 F.2d 1107, 1110 (5th Cir. 1987). Here, Plaintiff’s
10 complaint has been pending for over 90 days, and thus, absent a showing of “good cause,”
11 claims against Defendants Robberecht, AW Moore, Warden Chappelle, and McClelland
12 are subject to dismissal without prejudice. *See* Fed. R. Civ. P. 4(m). Plaintiff must remedy
13 the situation by providing more information regarding Defendant Afnan’s current
14 whereabouts or face dismissal of his claims against this Defendant without prejudice. *See*
15 *Walker v. Sumner*, 14 F.3d 1415, 1421-22 (9th Cir. 1994) (holding prisoner failed to show
16 cause why prison official should not be dismissed under Rule 4(m) where prisoner failed to
17 show he had provided Marshal with sufficient information to effectuate service).

18 For the foregoing reasons, the Court orders Plaintiff to file a notice providing the
19 Court with more information regarding the current whereabouts for **Defendants**
20 **Robberecht, AW Moore, Warden Chappelle, and McClelland** such that the Marshal is
21 able to effect service. If Plaintiff fails to provide the Court with the information requested
22 **within twenty-eight (28) days** of the date this order is filed, Plaintiff’s claim against
23 Defendants shall be dismissed without prejudice pursuant to Rule 4(m) of the Federal
24

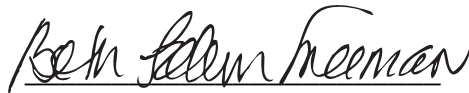
25
26 ¹ The service documents have not been returned for Defendants Lt. Luna, Lt. Jackson,
27 Givens, Welton, and CDW Rodriguez and there is no indication that they have been
28 served.

Rules of Civil Procedure.

The Clerk shall send Plaintiff a copy of the SQSP Litigation Coordinator letter indicating the information needed to assist with identification of the named Defendants.

IT IS SO ORDERED.

Dated: 11/14/2018



BETH LABSON FREEMAN
United States District Judge